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11	STATE OF CAL	IFORNIA
12	In the Matter of the Accusation Against:	Case No. VN-2005-1282
13	JAMILA GALLIEN, a.k.a. JAMILA SAIDAH GALLIEN,	ACCUSATION
14	a.k.a. JAMILA SAIDAH PORTER 24360 Rimview Road	
15	Moreno Valley, California 92557	
16	Vocational Nurse License No. VN 194282	
17	Respondent.	
18		
19	Complainant alleges:	
20	<u>PARTIES</u>	
21	1. Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") brings this	
22	Accusation solely in her official capacity as the Executive Officer of the Bureau of Vocational	
23	Nursing and Psychiatric Technicians ("Bureau"), Department of Consumer Affairs.	
24	2. On or about February 20, 200	1, the Bureau issued Vocational Nurse
25	License No. VN 194282 to Jamila Gallien, also known as Jamila Saidah Gallien and Jamila	
26	Saidah Porter ("Respondent"). Respondent's vocational nurse license was in full force and effect	
27	at all times relevant to the charges brought herein, by	ut expired on January 31, 2007, and has not
28	been renewed.	

1	STATUTORY PROVISIONS		
2	3. Business and Professions Code ("Code") section 118, subdivision (b),		
3	provides, in pertinent part, that the expiration of a license shall not deprive the Bureau of		
4	jurisdiction to proceed with a disciplinary action during the period within which the license may		
5	be renewed, restored, reissued or reinstated. Under Code section 2892.1, the Bureau of		
6	Vocational Nursing and Psychiatric Technicians may renew an expired license at any time within		
7	four years after the expiration.		
8	4. Code section 2875 provides, in pertinent part, that the Bureau of		
9	Vocational Nursing and Psychiatric Technicians may discipline the holder of a vocational nurse		
10	license for any reason provided in Article 3 (commencing with section 2875) of the Vocational		
11	Nursing Practice Act.		
12	5. Code section 2878 states, in pertinent part:		
13	The Board may suspend or revoke a license issued under this chapter [the Vocational Nursing Practice Act (Bus. & Prof. Code § 2840, et seq.)] for any of		

the following:

(a) Unprofessional conduct . . .

...

(j) The commission of any act involving dishonesty, when that action is related to the duties and functions of the licensee . . .

6. Code section 2878.5 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Vocational Nursing Practice Act] it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist or podiatrist administer to himself or herself or furnish or administer to another, any controlled substance as defined in Division 10 of the Health and Safety Code, or any dangerous drug as defined in Section 4022.

(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to narcotics or dangerous drugs as specified in subdivision (b).

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7. Code section 4022 states:

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in humans or animals, and includes the following:

- (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.
- (b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a -----," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.
- (c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.

8. Code section 4060 states:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer.

Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and devices.

- Health and Safety Code section 11170 provides that no person shall prescribe, administer, or furnish a controlled substance for himself.
 - 10. Health and Safety Code section 11173, subdivision (a), states, in part:

No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge . . .

COST RECOVERY

11. Code section 125.3 provides, in pertinent part, that the Bureau may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

1 CONTROLLED SUBSTANCES AND DANGEROUS DRUGS 2 12. "Dilaudid", a brand of hydromorphone, is a Schedule II controlled 3 substance as designated by Health and Safety Code section 11055, subdivision (b)(1)(K). 4 13. "Vicodin" is a compound consisting of 5 mg hydrocodone bitartrate, also 5 known as dihydrocodeinone, and 500 mg acetaminophen per tablet, and is a Schedule III 6 controlled substance as designated by Health and Safety Code section 11056, subdivision (e)(2). 7 14. "Zofran" is a dangerous drug within the meaning of Code section 8 4022 in that it is available by prescription only. Ö FIRST CAUSE FOR DISCIPLINE 10 (False Entries in Hospital/Patient Records) 11 POMONA VALLEY HOSPITAL MEDICAL CENTER (PVHMD) 12 15. Respondent is subject to disciplinary action pursuant to Code section 13 2878, subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 14 2878.5, subdivision (e), in that in or about November 2005, while employed and on duty as a 15 licensed vocational nurse at Pomona Valley Hospital Medical Center ("PVHMC"), Pomona, 16 California, Respondent falsified, or made grossly incorrect, grossly inconsistent, or unintelligible 17 entries in hospital, patient, or other records pertaining to the controlled substance Dilaudid and 18 dangerous drug Zofran, as follows: 19 Patient #845608: 20 On November 12, 2005, at 20:31 hours, Respondent withdrew Dilaudid 21 2 mg from PVHMD's SureMed system under Patient #845608's name, but inconsistently charted 22 in the patient's medication administration record ("MAR") that the Dilaudid was administered to 23 the patient at 19:36 hours. 24 b. On November 13, 2005, at 03:24 hours, Respondent withdrew Dilaudid 25 2 mg from PVHMD's SureMed system under Patient #845608's name, but inconsistently charted 26 in the patient's MAR that the Dilaudid was administered to the patient at 24:00 hours.

2 mg from PVHMD's SureMed system under Patient #845608's name, but failed to chart the

On November 13, 2005, at 06:36 hours, Respondent withdrew Dilaudid

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1 administration of the Dilaudid in the patient's MAR and otherwise failed to account for the 2 disposition of the Dilaudid 2 mg. 3 Patient #000104878822: 4 d. On November 26, 2005, at 04:00 hours, Respondent charted in Patient 5 #000104878822's MAR that she administered Zofran 4 mg to the patient by IVP. In fact, 6 Respondent did not administer the medication to the patient.1 7 AIR FORCE VILLAGE WEST (AFVW) - SKILLED NURSING FACILITY 8 16. Respondent is subject to disciplinary action pursuant to Code section 9 2878, subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 10 2878.5, subdivision (e), in that in or about June and July 2006, while employed and on duty as a licensed vocational nurse at AFVW, Respondent falsified, or made grossly incorrect, grossly 12 inconsistent, or unintelligible entries in hospital, patient, or other records pertaining to the 13 controlled substance Vicodin, as follows: 14 Patient Bernice D. 15 On July 28, 2006, at 08:00 hours, Respondent signed out on the Controlled 16 Drug Receipt/Record/Disposition Form (hereinafter "controlled drug record") one tablet of 17 Vicodin for Patient Bernice D., but failed to chart the administration of the Vicodin in the 18 patient's MAR or otherwise account for the disposition of the one Vicodin tablet. 19 Patient Ronald K. 20 On July 7, 2006, at 13:00 hours, Respondent signed out on the controlled b. 21 drug record two tablets of Vicodin for Patient Ronald K. when the physician's order called for 22 the administration of only one Vicodin tablet for the patient. Further, Respondent failed to chart 23 the administration of the Vicodin in the patient's MAR or otherwise account for the disposition 24 of the two tablets of Vicodin. 25 111 ///

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^{1.} Respondent alleges that she withdrew the Zofran from the SureMed system for another staff member, a registered nurse, and that the registered nurse administered the medication to the patient.

1 Patient John G. 2 On July 7, 2006, at 1500 hours, Respondent signed out on the controlled 3 drug record one tablet of Vicodin for Patient John G., but failed to chart the administration of the 4 Vicodin in the patient's MAR or otherwise account for the disposition of the one Vicodin tablet. 5 SECOND CAUSE FOR DISCIPLINE 6 (Dishonest Acts) 7 17. Respondent is subject to disciplinary action pursuant to Code section 8 2878, subdivision (i), in that in or about November 2005, Respondent committed acts involving 9 dishonesty while licensed as a vocational nurse, as set forth above in paragraphs 15 and 16, 10 which are incorporated herein by reference. 18. Respondent is subject to disciplinary action pursuant to Code section 11 2878, subdivision (j), in that in or about June 2006, and July 2006, Respondent committed acts 12 involving dishonesty while licensed as a vocational nurse, as set forth below at paragraph 19, 13 14 which is incorporated herein by reference. 15 THIRD CAUSE FOR DISCIPLINE (Diversion, Possession, and Prescription of Controlled Substances) 16 17 19. Respondent is subject to disciplinary action pursuant to Code 18 section 2878, subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2878.5, subdivision (a), in that in or about June 2006, and July 2006, while employed 19 and on duty as a licensed vocational nurse and charge nurse at Air Force Village West -20 Skilled Nursing Facility ("AFVW"), Riverside, California, Respondent did the following: 21 22 **Diversion of Controlled Substances:** 23 Respondent obtained the controlled substance Dilaudid by fraud, deceit, 24 misrepresentation, or subterfuge in violation of Health and Safety Code section 11173, 25 subdivision (a), as follows: Respondent signed the names of other nurses on prescriptions or 26 /// 27 111 28 111

falsely made, issued, forged, uttered, published, or passed as genuine prescriptions for Dilaudid, and had the prescriptions filled at Network-Citrus Pharmacy, Redlands, California,² as follows:

Patient Ronald K.

1. In or about July 2006, Respondent wrote or issued prescriptions for various quantities of Dilaudid for Patient Ronald K. on Physician's Telephone Orders belonging to AFVW, forged other nurses' signatures on the telephone orders, falsely represented on the telephone orders that the patient's physician had ordered or authorized the Dilaudid for the patient, then faxed the forged/falsified telephone orders to Network-Citrus Pharmacy. In fact, the patient's physician never prescribed Dilaudid for the patient.

Patient Robert W.

2. In or about June 2006, and July 2006, Respondent wrote or issued prescriptions for various quantities of Dilaudid for Patient Robert W. on Physician's Telephone Orders belonging to AFVW, forged other nurses' signatures on the telephone orders, falsely represented on the telephone orders that the patient's physician had ordered or authorized the Dilaudid for the patient, then faxed the forged/falsified telephone orders to Network-Citrus Pharmacy. In fact, the patient's physician never prescribed Dilaudid for the patient.

Possession of Controlled Substances:

b. In or about June 2006, and July 2006, Respondent possessed various quantities of the controlled substance Dilaudid without valid prescriptions from a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor, as set forth in subparagraph (a) above, in violation of Code section 4060.

Prescription of Controlled Substances:

c. In or about June 2006, and July 2006, Respondent prescribed various quantities of the controlled substance Dilaudid, as set forth in subparagraph (a) above, and had the prescriptions filled at Network-Citrus Pharmacy.

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^{2.} Respondent signed packing lists indicating that the Dilaudid was, in fact, delivered and received at AFVW.

1	<u>PRAYER</u>	
2	WHEREFORE, Complainant requests that a hearing be held on the matters herein	
3	alleged, and that following the hearing, the Bureau of Vocational Nursing and Psychiatric	
4	Technicians issue a decision:	
5	1. Revoking or suspending Vocational Nurse License Number VN 194282,	
6	issued to Jamila Gallien, also known as Jamila Saidah Gallien and Jamila Saidah Porter;	
7	2. Ordering Jamila Gallien, also known as Jamila Saidah Gallien and Jamila	
8	Saidah Porter, to pay the Bureau of Vocational Nursing and Psychiatric Technicians the	
9	reasonable costs of the investigation and enforcement of this case, pursuant to Business and	
10	Professions Code section 125.3;	
11	 Taking such other and further action as deemed necessary and proper. 	

DATED: October 15, 2008

TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Bureau of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant